

§ 404.341

20 CFR Ch. III (4–1–12 Edition)

(a) You were validly married to the insured under State law as described in § 404.345 or you were deemed to be validly married as described in § 404.346 but the marriage ended in a final divorce and—

(1) You are the mother or father of the insured's child; or

(2) You were married to the insured when either of you adopted the other's child or when both of you adopted a child and the child was then under 18 years old;

(b) You apply for these benefits; or you were entitled to wife's or husband's benefits for the month before the insured died;

(c) You are unmarried;

(d) You are not entitled to widow's or widower's benefits, or to an old-age benefit that is equal to or larger than the full mother's or father's benefit; and

(e) You have *in your care* the insured's child who is under age 16 or disabled, is your natural or adopted child, and is entitled to child's benefits on the insured person's record. Sections 404.348 and 404.349 describe when a child is *in your care*.

[44 FR 34481, June 15, 1979, as amended at 45 FR 68932, Oct. 17, 1980; 48 FR 21927, May 16, 1983; 58 FR 64891, Dec. 10, 1993; 73 FR 40967, July 17, 2008]

§ 404.341 When mother's and father's benefits begin and end.

(a) You are entitled to mother's or father's benefits beginning with the first month covered by your application in which you meet all the other requirements for entitlement.

(b) Your entitlement to benefits ends with the month before the month in which one of the following events first occurs:

(1) You become entitled to a widow's or widower's benefit or to an old-age benefit that is equal to or larger than the full mother's or father's benefit.

(2) There is no longer a child of the insured who is under age 16 or disabled and entitled to a child's benefit on the insured's earnings record. (See paragraph (c) of this section if you were entitled to mother's or father's benefits for August 1981.) (If you no longer have in your care a child who is under age 16 or disabled and entitled to child's bene-

fits on the insured's earnings record, your benefits may be subject to deductions as provided in § 404.421.)

(3) You remarry. Your benefits will not end, however, if you marry someone entitled to old-age, disability, wife's, husband's, widow's, widower's, father's, mother's, parent's or disabled child's benefits.

(4) You die.

(c) If you were entitled to spouse's benefits on the basis of having a child in care, or to mother's or father's benefits for August 1981, your entitlement will continue until September 1983, until the child reaches 18 (unless disabled) or is otherwise no longer entitled to child's benefits, or until one of the events described in paragraph (b) (1), (3), or (4) of this section occurs, whichever is earliest.

[44 FR 34481, June 15, 1979, as amended at 48 FR 21927, May 16, 1983; 49 FR 24115, June 12, 1984; 58 FR 64891, Dec. 10, 1993; 64 FR 14608, Mar. 26, 1999]

§ 404.342 Mother's and father's benefit amounts.

Your mother's or father's monthly benefit is equal to 75 percent of the insured person's primary insurance amount. The amount of your monthly benefit may change as explained in § 404.304.

§ 404.344 Your relationship by marriage to the insured.

You may be eligible for benefits if you are related to the insured person as a wife, husband, widow, or widower. To decide your relationship to the insured, we look first to State laws. The State laws that we use are discussed in § 404.345. If your relationship cannot be established under State law, you may still be eligible for benefits if your relationship as the insured's wife, husband, widow, or widower is based upon a *deemed valid marriage* as described in § 404.346.

§ 404.345 Your relationship as wife, husband, widow, or widower under State law.

To decide your relationship as the insured's wife or husband, we look to the laws of the State where the insured had a permanent home when you applied